

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP

**WASHINGTON HARBOUR, SUITE 400**

**3050 K STREET, NW**

**WASHINGTON, DC 20007**

NEW YORK, NY

LOS ANGELES, CA

CHICAGO, IL

STAMFORD, CT

PARSIPPANY, NJ

FACSIMILE

(202) 342-8451

www.kelleydrye.com

(202) 342-8400

JOHN J. HEITMANN

DIRECT LINE: (202) 342-8544

EMAIL: jheitmann@kelleydrye.com

BRUSSELS, BELGIUM

AFFILIATE OFFICE

MUMBAI, INDIA

January 19, 2017

Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Red Pocket Inc. Petition for Streamlined Designation as a Lifeline  
Broadband Provider Eligible Telecommunications Carrier; Oral Ex  
Parte Presentation; WC Docket No. 09-197**

Dear Ms. Dortch:

On January 17, 2017, John Heitmann of Kelley Drye & Warren LLP spoke via telephone on behalf of Red Pocket Inc. (Red Pocket) with Claude Aiken, Legal Advisor to Commissioner Clyburn regarding Red Pocket's pending petition for designation as a Lifeline Broadband Provider (LBP) pursuant to the Lifeline Modernization Order.<sup>1</sup>

During this discussion, I contested the Wireline Competition Bureau's (Bureau's) removal of Red Pocket's petition from streamlined processing. Specifically, I explained that the newly minted LBP designation process already was in danger of becoming a replica of the dysfunctional federal ETC designation and Lifeline-only compliance plan approval processes, through which the Commission has thwarted competitive entry not only in those states where it designates wireless service providers as ETCs, but across the country.<sup>2</sup> By standardizing

---

<sup>1</sup> See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 3969, para. 22 (2016) (Lifeline Modernization Order).

<sup>2</sup> With one exception applicable to two ETCs, each serving a single state, the Bureau last granted approval of a petition for Lifeline-only designation as an eligible telecommunications carrier in August 2012. See *Telecommunications Carriers Eligible for Universal Support, et al.*, WC Docket No. 09-197, Order (rel. August 16, 2012); see also *Telecommunications Carriers Eligible for Universal Service Support, et al.*, WC Docket No. 09-197, Order (rel. Nov. 26, 2014). With limited exceptions for wireline designation and an amended compliance plan, the Bureau last approved a compliance plan in December 2012. *Wireline Competition Bureau Approves The Compliance Plans of Airvoice Wireless, Amerimex Communications, Blue Jay Wireless, Millennium 2000, Nexus Communications, Platinumtel Communications, Sage*

Marlene Dortch  
January 19, 2017  
Page Two

application requirements and review periods, the LBP designation process was designed to streamline competitive entry, not thwart it.

I also contested the Bureau's claim that "[i]n determining whether the Bureau should grant a petition for LBP designation, the Bureau should consider the unique 'advantages and disadvantages of the applicant's service offerings.'" <sup>3</sup> I explained that with the Commission's broadband minimum service standards in place, it should approve applicants on a technology- and service-neutral basis so that consumers can determine for themselves—based on their individual circumstances—the advantages and disadvantages of particular service offerings.

Despite the foregoing concerns, I nevertheless highlighted the unique advantages of Assist's Lifeline broadband service offerings. I explained that Red Pocket already has a significant presence in the pre-paid wireless market, with a distinct focus on ethnic communities. For example, Red Pocket offers customer care in Mandarin, Filipino, Spanish and English. Moreover, Red Pocket is the only mobile virtual network operator (MVNO) with direct access to all four wireless mobile network operators (MNOs)—a considerable advantage in terms of consumer choice. Further, Red Pocket intends to include free international calling with all of its LBP plans. Calls to China, India, Mexico, Canada, and other select destinations will be rated the same as a domestic call included in any plan offered in conjunction with Red Pocket's Lifeline service. Red Pocket will offer consumers a choice of 3G or 4G speeds depending on the their device. Finally, Red Pocket will innovatively leverage unique partnerships to facilitate Lifeline distribution, including arrangements with the Office of the Bronx Borough President and eBay. Such offerings would be of great value to underserved Lifeline-eligible households, and bolster competition in the Lifeline program.

I concluded by requesting support for approving Red Pocket's LBP designation so that consumers in states like New York, Florida and elsewhere could gain access to Red Pocket's unique and innovative Lifeline service offerings.

---

*Telecom, Telrite and Telscape Communications*, WC Docket Nos. 09-197, 11-42, Public Notice (rel. Dec. 26, 2012).

<sup>3</sup> See Lifeline Modernization Order ¶ 22.

**KELLEY DRYE & WARREN LLP**

Marlene Dortch  
January 19, 2017  
Page Three

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,



John J. Heitmann  
Kelley Drye & Warren LLP  
3050 K Street, NW, Suite 400  
Washington, DC 20007  
(202) 342-8400

*Counsel to Red Pocket Inc.*

cc: Claude Aiken